IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4779 of 2007()

CRIME NO.140/07 OF VELLARADA POLICE STATION

: PETITIONER/IST ACCUSED

MADHU,
S/O. ASHOK KUMAR,KUZHIVILA VEEDU, A.P. 11/201,
NEAR CHEMBOOR GOVERNMENT HOSPITAL,
KEEZHAROOR VILLAGE, VELLARADA,
NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.GOPAKUMAR R.THALIYAL

RESPONDENTS: STATE

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4779 of 2007

Dated this the 14th day of August, 2007

ORDER

Application for anticipatory bail. The petitioner apprehends arrest in a crime registered under Sections 120 B and 366 A r/w 34 I.P.C. The petitioner is the 1st accused. His close relatives - mother, sister etc. are the co-accused. They have already been arrested and released on bail. The petitioner apprehends arrest at any moment.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner and prosecutrix, a girl aged about 16 years were in love. They wanted to marry each other. The parents of the girl were willing for such arrangement of marriage. But the father of the girl insisted that an item of property must be conveyed in favour of the girl. The petitioner had some reservation. The property could not be conveyed. Thereafter the parents of the girl did not approve of the relationship between the prosecutrix and the petitioner. They tried to dissuade the girl from that relationship. But the lovers could not discontinue the relationship. The relatives of the petitioner were willing to approve the marriage. The crux of the contention is that the relatives of the petitioner took the girl away from her school and took her to the petitioner. Thereupon they started living together. There was sexual intercourse also between them after they so started residing together.

3. The girl was taken into custody and produced before the Magistrate. The girl gave a statement in tune with the case of the petitioner. As she was a minor and has not attained the age of 18 years, she was sent to the Mahilamandiram. The statement of the girl was also recorded by the police. The case diary was placed before me for my perusal. I have gone through the case diary.

4. The learned counsel for the petitioner submits that even accepting the entire allegations, there is absolutely no element of culpability in the conduct of the petitioner. At any rate, the petitioner does not deserve to be arrested and incarcerated on these allegations. Anticipatory bail may, in these circumstances, be granted to the petitioner, it is prayed.

5. The learned Public Prosecutor does not oppose the application and I am satisfied in the facts and circumstances of the case to which brief reference has already been made by me, that this is a fit case where directions under Section 438 Cr.P.C can be issued in favour of the petitioner.

6. In the result, this Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 21.08.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only)

with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 5 p.m on 22.08.2007and thereafter between 10 a.m and 12 noon on all Mondays for a period of one month. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 21.08.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 21.08.07.

(R.BASANT, JUDGE)

rtr/-